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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,196	10/27/2003	Shigeru Suzuki	FP03-103US	4278

1218 7590 03/08/2007  
CASELLA & HESPOS  
274 MADISON AVENUE  
NEW YORK, NY 10016

EXAMINER
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STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/695,196

Applicant(s)

SUZUKI ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,9 and 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Election/Restrictions***

Applicant's election of Groups I, III and V in the reply filed on October 26, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Accordingly, claims 3, 4, 9 and 12-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 26, 2005. It should be noted that the examiner erred in the previous Office action by designating claim 9 as being generic. Upon further review of claim 9, it has become apparent that claim 9 belongs in non-elected group IV. Therefore, claim 9 has not been examined.

### ***Drawings***

The drawing correction filed February 12, 2007 has been approved. However, the drawings are still objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fixing passage extending through the fixing portion must be shown or the feature canceled from claim 1. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

Claims 1, 2, 5-8, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "cable a through" on line 2 of claim 1 and "linear rail the" on line 3 of claim 1 are grammatically awkward and confusing. Recitations such as "the spanning part" on line 20 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the spanning portion set forth above or is attempting to set forth another element of the invention in addition to the ones set forth above.

Recitations such as "a stretching part" on line 3 of claim 6 render the claims indefinite

because it is unclear if the applicant is referring to the spanning portion of the cable set forth above or is attempting to set forth another element of the invention in addition to the spanning portion set forth above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Publication No. 2002-002288 in view of Gordon. Japanese Patent Publication No. 2002-002288 discloses a construction for guiding and supporting a cable 4 through a bending deformation, comprising a substantially linear rail 2; a slider 3 having an engaging portion (not numbered, but comprising the portion of the slider 3 engaging the rail) mounted to the rail for sliding substantially linearly along the rail, a cable support 16 offset from the rail, the cable support having a slider passage (not numbered, but comprising the passage through which the cable 4 extends as shown in figure 1) extending therethrough, a fixing portion 9 coupled to the second end of the cable and spaced from the rail, the fixing portion having a fixing passage (not numbered, but comprising the passage through which the cable 4 extends as shown in figure 1) extending therethrough, a cable 4 extending through the fixing passage of the fixing portion, through the slider passage of the slider, the cable having a spanning

portion 4a with a door-side end fixed to the slider and a body side end disposed externally of the slider; and a fixing member 7 supporting the body-side end of the spanning part of the cable so that the spanning part of the cable is pivotal relative to the fixing part and the slider, wherein a rail-side engaging portion is provided on a surface of the rail, the rail-side engaging portion being slidably engageable with a slider-side engaging portion of the slider, a stretching part 4a supported by the slider near the slider-side opening of the cable guide, wherein the rail has a curved section (not numbered, but comprising the curved end of the slot in the rail). Japanese Patent Publication No. 2002-002288 is silent concerning a cable guide.

However, Gordon discloses a cable guide 24 formed to undergo a bending deformation about a plurality of parallel axes and only in a specified plane, the cable guide having a first end 22 coupled to a slider 14 and a second end (not numbered, but shown connected to the fixing portion 20 and 20A), the cable guide having a guide passage (not numbered, but shown in figure 11) extending therethrough, portions of the guide passage communicating with a slider passage (not numbered, but defined by 22 and 22A) at the first end of the cable guide, whereby the slider 14 and the cable guide 24 and the fixing portion 20 and 20A guide the cable introduced through the passages therein through a controlled bending deformation between the slider and the fixing portion, the cable guide 24 comprises a plurality of substantially tubular links 26.

It would have been obvious to one of ordinary skill in the art to provide Japanese Patent Publication No. 2002-002288 with a cable guide, as taught by Gordon, to protect the cable as it moves between the slider and the fixed portion.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Publication No. 2002-002288 in view of Gordon as applied to claims 1, 2 and 5-8, and further in view of Ayrán. Japanese Patent Publication No. 2002-002288, as modified above, is silent concerning the particular construction of the slider and rail side engaging portion.

However, Ayrán discloses a rail 9a and a slider L<sub>1</sub> comprising a rail-side engaging portion (not numbered, but shown in figure 2) and a slider-side engaging portion (not numbered, but shown in figure 2) engageable with each other to slidably hold the slider, wherein the slider-side engaging portion has engaging grooves (not numbered, but shown in figure 8), and the rail-side engaging portion has engaging projections (not numbered, but shown in figure 8) that fit in the engaging grooves of the slider-side engaging portion and extending along a longitudinal direction of the rail.

It would have been obvious to one of ordinary skill in the art to provide Japanese Patent Publication No. 2002-002288, as modified above, with a guide rail and slider engagement, as taught by Ayrán, to ensure the proper movement of the slider along the rail.

### ***Response to Arguments***

Applicant's arguments filed February 12, 2007 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

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are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With respect to the applicant's arguments concerning the motivation to combine the references of record, the examiner respectfully disagrees. The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Since the applicant has failed to address the reasoning/rationale supplied by the examiner as to why the modification would have been obvious, the applicant's arguments are not persuasive.

With respect to the applicant's comments concerning Japanese Patent Publication No. 2002-002288 failing to disclose the pivotal movement of the spanning part, the examiner respectfully disagrees. As shown in figure 1 of Japanese Patent Publication No. 2002-002288, the opening 25 of the fixing portion 7 opens in a direction perpendicular to the sliding movement of the door 1. Therefore, as the door opens and closes, the stretching part 4a of the cable 4 must pivot some relative to the opening 25 even though it is extended and retracted through the opening 25.

Finally, the applicant's comments concerning Gordon failing to disclose a spanning part extending beyond the slider 14 of Gordon are not persuasive because the



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rejection, as set forth above, provides the cable 4 extending between the slider 3 and the fixing portion 9 with the cable guide of Gordon.

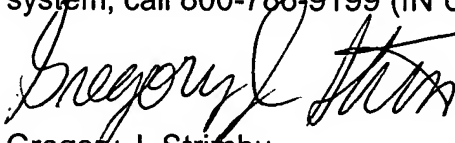
***Conclusion***

**THIS ACTION IS NOT MADE FINAL.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory J. Strimbu

Primary Examiner

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March 5, 2007